

REMARKS

Claims 1-4, 7, 9, 10, 12-14, 17, 19-23, 26, and 28 are currently pending in this application.

DOUBLE PATENTING REJECTION

All pending claims in this application were rejected as being unpatentable on the ground of obviousness-type double patenting in view of the claims in U.S. Patent No. 6,695,830 (Virgil et al.). The previously submitted Terminal Disclaimer was deemed to be defective. A new Terminal Disclaimer, signed by an attorney of record, is submitted herewith. Accordingly, Applicants respectfully request withdrawal of this rejection.

REJECTIONS UNDER § 102 AND § 103

Claims 1, 2, 4, 10, 12, 14, 20, 21, and 23 were rejected under § 102(b) as being anticipated by U.S. Patent No. 5,306,250 (March et al.). Claims 3, 13, and 22 were rejected under § 103(a) as being rendered obvious by *March* in view of U.S. Patent No. 5,681,289 (Wilcox et al.); claims 7, 9, 17, 19, 26, and 28 were rejected under § 103(a) as being rendered obvious by *March* in view of U.S. Patent No. 5,328,470 (Nabel et al.) Applicants respectfully request reconsideration of these rejections.

In reply to Applicants' arguments in the prior submission, the final Office Action asserts:¹

microapertures positioned in only a single plane...however, the claim reads "being positioned in a plane oriented substantially perpendicular to said axis." Examiner points out that any dispenser located on March is positioned in "a plane perpendicular to said axis." There is not claim language requiring the dispensers to be positioned in a *single plane*. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims.

Directing the Examiner to the Preliminary Amendment filed on Jan. 22, 2004 (concurrently with the filing of this application), Applicants respectfully note that independent

¹ Final Office Action (6/13/2007), pg. 5, first paragraph.

claims 1, 10, and 20 (as previously amended) do recite “dispensers consisting only of dispensers positioned in a single plane oriented substantially perpendicular to said axis” (emphasis added). If the Examiner is in agreement with the status of the claims, Applicants respectfully request reconsideration of Applicants’ arguments in the prior submission of Jan. 30, 2007, and withdrawal of the rejections under § 102.

Also in reply to Applicants’ arguments in the prior submission, the pending Office Action disagrees with the Applicants’ contention that *Wilcox* does not teach the use of radioactive isotopes in association with any of the medical devices. Applicants maintain that the teaching of *Wilcox* relating to the use of radioactive isotopes is not sufficiently specific and clear to disclose this feature of the claimed inventions.

Moreover, if the Examiner is in agreement with the status of claims, Applicants respectfully request reconsideration of Applicants’ previous argument that the combination of *March* and *Wilcox* and the combination of *March* and *Nabel* do not include all the features of claim 1. Accordingly, withdrawal of the rejections under § 103 is respectfully requested.

CONCLUSION

Applicants respectfully submit that the present application is in condition for allowance. The Examiner is invited to contact Applicants’ representative to discuss any issue that would expedite allowance of this application.

The Commissioner is authorized to charge all required fees, fees under § 1.17, or all required extension of time fees, or to credit any overpayment to Deposit Account No. 11-0600 (Kenyon & Kenyon LLP).

Respectfully submitted,

Date: 3 August 2007

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